

## CHAMBER ACTION

1 The Finance & Tax Committee recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to contraband and counterfeit cigarettes;  
7 providing additional regulatory and enforcement measures;  
8 amending s. 210.01, F.S.; revising and providing  
9 definitions; amending s. 210.06, F.S.; revising  
10 requirements for and limitations on the affixation of  
11 stamps; providing requirements with respect to receipt,  
12 possession, storage, and transport of unstamped cigarette  
13 packages; creating s. 210.085, F.S.; requiring  
14 manufacturers, importers, distributing agents, dealers,  
15 and retail dealers to hold a current, valid permit to  
16 sell, distribute, or receive cigarettes; amending s.  
17 210.09, F.S.; providing notice and filing guidelines for  
18 certain persons shipping unstamped cigarette packages;  
19 authorizing certain law enforcement officials to inspect  
20 certain shipping vehicles; providing for application to  
21 and records requirements of manufacturers and importers;  
22 amending s. 210.12, F.S.; authorizing the state to claim  
23 certain property and materials from certain dealers and

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24       retailers who attempt to defraud the state; authorizing  
25       the destruction of certain cigarettes; amending s. 210.15,  
26       F.S.; providing criteria for permit application;  
27       prohibiting issuance, maintenance, or renewal of certain  
28       permits for certain applicants; providing guidelines for  
29       permit application denial; amending s. 210.16, F.S.;  
30       revising the authority of the Division of Alcoholic  
31       Beverages and Tobacco to revoke or suspend the permits of  
32       certain persons under certain circumstances; revising a  
33       penalty period for revoked permits; increasing a civil  
34       penalty; amending s. 210.18, F.S.; expanding the group of  
35       violators subject to criminal liability; providing for  
36       seizure of counterfeit cigarettes and related machinery;  
37       making unlawful the selling or possessing with intent to  
38       sell counterfeit cigarettes; providing criminal penalties;  
39       providing for destruction of counterfeit cigarettes;  
40       creating s. 210.181, F.S.; providing civil penalties for  
41       failure to comply with certain duties or pay certain  
42       taxes; reenacting ss. 772.102(1)(a) and 895.02(1)(a),  
43       F.S., relating to crimes constituting a "criminal  
44       activity" and definitions as used in the Florida RICO Act,  
45       to incorporate the amendment to s. 210.18, F.S., in  
46       references thereto; providing an effective date.

47  
48   Be It Enacted by the Legislature of the State of Florida:  
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50           Section 1. Subsections (6) and (7) of section 210.01,  
51 Florida Statutes, are amended, and subsections (19) through (22)  
52 are added to said section, to read:

53           210.01 Definitions.--When used in this part the following  
54 words shall have the meaning herein indicated:

55           (6) "Wholesale dealer" means any person located inside or  
56 outside this state who sells cigarettes to retail dealers or  
57 other persons for purposes of resale only, ~~or any person who~~  
58 ~~operates more than one cigarette vending machine located in more~~  
59 ~~than one place of business.~~ Such term shall not include any  
60 cigarette manufacturer, export warehouse proprietor, or importer  
61 with a valid permit under 26 U.S.C. s. 5712 if such person sells  
62 or distributes cigarettes in this state only to dealers who are  
63 agents and who hold valid and current permits under s. 210.15 or  
64 to any cigarette manufacturer, export warehouse proprietor, or  
65 importer who holds a valid and current permit under 26 U.S.C. s.  
66 5712.

67           (7) "Retail dealer" means any person located inside or  
68 outside this state other than a wholesale dealer engaged in the  
69 business of selling cigarettes, including persons issued a  
70 permit pursuant to s. 569.003.

71           (19) "Stamp" or "stamps" means the indicia required to be  
72 placed on cigarette packages that evidence payment of the tax on  
73 cigarettes under s. 210.02.

74           (20) "Importer" means any person with a valid permit under  
75 26 U.S.C. s. 5712 who imports into the United States, directly  
76 or indirectly, a finished cigarette for sale or distribution.

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(21) "Manufacturer" means any domestic person or entity with a valid permit under 26 U.S.C. s. 5712 that manufactures, fabricates, assembles, processes, or labels a finished cigarette.

(22) "Counterfeit cigarettes" means cigarettes that have false manufacturing labels, tobacco product packs with counterfeit tax stamps, or any combination thereof.

Section 2. Subsection (1) of section 210.06, Florida Statutes, is amended, and subsection (5) is added to said section, to read:

210.06 Affixation of stamps; presumption.--

(1) Every dealer within ~~or without~~ the state shall affix or cause to be affixed to such package or container of such cigarettes such~~7~~ stamps as are required under this section within 10 days after receipt of such products. Dealers outside this state shall affix such stamps before the shipment of cigarettes into this state, ~~evidencing the payment of the tax imposed by virtue of this part before such cigarettes are offered for sale or use or consumed or before they are otherwise disposed of in the state.~~

(a) A tax stamp shall be applied to all cigarette packages intended for sale or distribution to consumers subject to the tax imposed under s. 210.02, except as otherwise provided in this part.

(b) No stamp shall be applied to any cigarette package exempt from tax under 26 U.S.C. s. 5704 that is distributed by a manufacturer pursuant to federal regulations.

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104        (c) Dealers may apply stamps only to cigarette packages  
105 received directly from a manufacturer or importer of cigarettes,  
106 or a distributing agent representing a manufacturer or importer  
107 of cigarettes, who possesses a valid and current permit under  
108 this part.

109        (5) Except as provided in s. 210.04(9) or s. 210.09(1), no  
110 person, other than a dealer or distributing agent that receives  
111 unstamped cigarette packages directly from a cigarette  
112 manufacturer or importer in accordance with this section and s.  
113 210.085, shall hold or possess an unstamped cigarette package.  
114 Dealers shall be permitted to set aside, without application of  
115 stamps, only such part of the dealer's stock that is identified  
116 for sale or distribution outside this state. If a dealer  
117 maintains stocks of unstamped cigarette packages, such unstamped  
118 packages shall be stored separately from stamped product  
119 packages. No unstamped cigarette packages shall be transferred  
120 by a dealer to another facility of the dealer within this state  
121 or to another person within this state.

122        Section 3. Section 210.085, Florida Statutes, is created  
123 to read:

124        210.085 Transactions only with permitted manufacturers,  
125 importers, distributing agents, dealers, and retail  
126 dealers.--Except as otherwise provided in s. 210.04(9), a  
127 manufacturer or importer, or a distributing agent representing a  
128 manufacturer or importer, may sell or distribute cigarettes to a  
129 person located or doing business within this state only if such  
130 person is a dealer or importer with a valid, current permit  
131 under s. 210.15. A distributing agent may accept cigarettes from

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a manufacturer or importer with a valid, current permit for transfer to a dealer with a valid, current permit but may not own or sell cigarettes. A dealer may sell or distribute cigarettes to a person located or doing business within this state only if such person is a dealer or retail dealer with a valid, current permit under s. 569.003. A dealer may obtain cigarettes only from a manufacturer or importer or from a distributing agent or dealer with a valid, current permit under s. 210.15. A retail dealer may obtain cigarettes only from a dealer with a valid, current permit under s. 210.15.

Section 4. Subsections (1), (2), and (3) and paragraph (a) of subsection (4) of section 210.09, Florida Statutes, are amended to read:

210.09 Records to be kept; reports to be made; examination.--

(1)(a) Every person who shall possess or transport any unstamped cigarettes upon the public highways, roads, or streets of the state, shall be required to have in his or her actual possession invoices or delivery tickets for such cigarettes. The absence of such invoices or delivery tickets shall be prima facie evidence that such person is a dealer in cigarettes in this state and subject to the provisions of this part.

(b) Any person who ships unstamped cigarette packages into this state other than to a manufacturer, an importer, or a distributing agent representing a manufacturer or an importer, or dealer holding a valid, current permit pursuant to s. 210.15 shall first file with the division a notice of such shipment. This paragraph shall not apply to any common or contract carrier

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160 that is transporting cigarettes through this state to another  
161 location outside this state under a proper bill of lading or  
162 freight bill that states the quantity, source, and destination  
163 of such cigarettes or to cigarettes shipped or otherwise  
164 transported pursuant to s. 210.04(9).

165 (c) In any case in which the division or its duly  
166 authorized agent, or any law enforcement officer of this state,  
167 has probable cause to believe that any vehicle is transporting  
168 cigarettes in violation of this part, the division, such agent,  
169 or such law enforcement officer is authorized to stop such  
170 vehicle and inspect the vehicle for contraband cigarettes.

171 (2) The division is authorized to prescribe and promulgate  
172 by rules and regulations, which shall have the force and effect  
173 of the law, such records to be kept and reports to be made to  
174 the division by any manufacturer, importer, distributing agent,  
175 wholesale dealer, retail dealer, common carrier, or any other  
176 person handling, transporting or possessing cigarettes for sale  
177 or distribution within the state as may be necessary to collect  
178 and properly distribute the taxes imposed by s. 210.02. All  
179 reports shall be made on or before the 10th day of the month  
180 following the month for which the report is made, unless the  
181 division by rule or regulation shall prescribe that reports be  
182 made more often.

183 (3) All manufacturers, importers, distributing agents,  
184 wholesale dealers, agents, or retail dealers shall maintain and  
185 keep for a period of 3 years at the place of business where any  
186 transaction takes place, such records of cigarettes received,  
187 sold, or delivered within the state as may be required by the

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188 division. The division or its duly authorized representative is  
189 hereby authorized to examine the books, papers, invoices, and  
190 other records, the stock of cigarettes in and upon any premises  
191 where the same are placed, stored, and sold, and the equipment  
192 of any such manufacturers, importers, distributing agents,  
193 wholesale dealers, agents, or retail dealers, pertaining to the  
194 sale and delivery of cigarettes taxable under this part. To  
195 verify the accuracy of the tax imposed and assessed by this  
196 part, each person is hereby directed and required to give to the  
197 division or its duly authorized representatives the means,  
198 facilities, and opportunity for such examinations as are herein  
199 provided for and required.

200 (4)(a) All persons who are either cigarette manufacturers,  
201 importers, wholesalers, ~~vending machine operators~~ or  
202 distributing agents, and agents and employees of the same, are  
203 required to keep daily sales tickets or invoices of cigarette  
204 sales and it shall be the duty of said persons to see that each  
205 sales ticket and invoice handled by them or on behalf of them  
206 show the correct name and address to whom sold and the number of  
207 packages or cartons of each brand sold. It shall also be the  
208 duty of said persons to see that each sales ticket or invoice  
209 correctly shows whether the same is inside or outside of a  
210 qualified municipality and if the sale is made within the limits  
211 of a qualified municipality, the correct name of the  
212 municipality must be indicated.

213 Section 5. Subsection (1) of section 210.12, Florida  
214 Statutes, is amended, subsections (2) through (6) of said  
215 section are renumbered as subsections (4) through (8),



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216 respectively, and new subsections (2) and (3) are added to said  
217 section, to read:

218 210.12 Seizures; forfeiture proceedings.--

219 (1) The state, acting by and through the division, shall  
220 be authorized and empowered to seize, confiscate, and forfeit  
221 ~~for the use and benefit of the state,~~ any cigarettes upon which  
222 taxes payable hereunder may be unpaid or that are otherwise held  
223 in violation of the requirements of this chapter, and also any  
224 vending machine or receptacle in which ~~such~~ cigarettes upon  
225 which taxes have not been paid are held for sale, or any vending  
226 machine that does not have affixed thereto the identification  
227 sticker required by the provisions of s. 210.07, or which does  
228 not display at all times at least one package of each brand of  
229 cigarettes located therein so the same is clearly visible and  
230 arranged in such a manner that the cigarette tax stamp or meter  
231 impression of the stamp affixed thereto is clearly visible. Such  
232 seizure may be made by the division, its duly authorized  
233 representative, any sheriff or deputy sheriff, or any police  
234 officer.

235 (2) All fixtures, equipment, and other materials and  
236 personal property on the premises of any dealer, retail dealer,  
237 or distributing agent who, with intent to defraud the state,  
238 fails to keep or make any record, return, report, or inventory  
239 required by this part; keeps or makes any false or fraudulent  
240 record, return, report, or inventory required by this part;  
241 refuses to pay any tax imposed by this part; or attempts in any  
242 manner to evade or defeat the requirements of this part shall be

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forfeited to the state as provided by the Florida Contraband  
Forfeiture Act.

(3) All cigarettes seized, confiscated, and forfeited to  
the state under this part shall be destroyed.

Section 6. Subsection (1) of section 210.15, Florida  
Statutes, is amended to read:

210.15 Permits.--

(1)(a) Every person, firm, or corporation desiring to  
engage in business as a manufacturer, importer, exporter,  
distributing agent, or wholesale dealer of cigarettes ~~deal in~~  
~~cigarettes as a distributing agent, wholesale dealer, or~~  
~~exporter~~ within this state shall file with the division an  
application for a cigarette permit for each place of business  
located within this state or, in the absence of such place of  
business in this state, for wherever its principal place of  
business is located ~~with the Division of Alcoholic Beverages and~~  
~~Tobacco~~. Every application for a cigarette permit shall be made  
on forms furnished by the division and shall set forth the name  
under which the applicant transacts or intends to transact  
business, the location of the applicant's place of business  
within the state, if any, and such other information as the  
division may require. If the applicant has or intends to have  
more than one place of business dealing in cigarettes within  
this state, the application shall state the location of each  
place of business. If the applicant is an association, the  
application shall set forth the names and addresses of the  
persons constituting the association, and if a corporation, the  
names and addresses of the principal officers thereof and any

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271 other information prescribed by the division for the purpose of  
272 identification. The application shall be signed and verified by  
273 oath or affirmation by the owner, if a natural person, and in  
274 the case of an association or partnership, members or partners  
275 thereof, and in the case of a corporation, by an executive  
276 officer thereof or by any person specifically authorized by the  
277 corporation to sign the application, to which shall be attached  
278 the written evidence of this authority. ~~The cigarette permit for~~  
279 ~~a distributing agent shall be issued annually for which an~~  
280 ~~annual fee of \$5 shall be charged.~~

281 ~~(b) The holder of any duly issued, annual permit for a~~  
282 ~~distributing agent shall be entitled to a renewal of his or her~~  
283 ~~annual permit from year to year as a matter of course, on or~~  
284 ~~before July 1, upon making application to the division and upon~~  
285 ~~payment of this annual permit fee.~~

286 (b)(c) Permits ~~The permit for a distributing agent,~~  
287 ~~wholesale dealer, or exporter~~ shall be issued only to persons of  
288 good moral character, who are not less than 18 years of age.  
289 ~~Distributing agent, wholesale dealer, or exporter~~ Permits to  
290 corporations shall be issued only to corporations whose officers  
291 are of good moral character and not less than 18 years of age.  
292 There shall be no exemptions from the permit fees herein  
293 provided to any persons, association of persons, or corporation,  
294 any law to the contrary notwithstanding.

295 (c) ~~No distributing agent, wholesale dealer, or exporter~~  
296 ~~permit under this part or chapter 569 shall be issued,~~  
297 ~~maintained, or renewed if the applicant, its officers, or any~~  
298 ~~person or persons owning directly or indirectly, in the~~

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299 aggregate, more than 10 percent of the ownership interests in  
300 the applicant:

301 1. Has been finally adjudicated as owing \$500 or more in  
302 delinquent cigarette taxes;

303 2. Had a permit revoked by the division within the  
304 previous 2 years;

305 3. Has been convicted of selling stolen or counterfeit  
306 cigarettes, receiving stolen cigarettes, or being involved in  
307 the counterfeiting of cigarettes;

308 4. ~~to any person who~~ Has been convicted within the past 5  
309 years of any offense against the cigarette laws of this state or  
310 ~~who has been~~ convicted in this state, any other state, or the  
311 United States during the past 5 years of any offense designated  
312 as a felony by such state or the United States, or to a  
313 corporation, any of whose officers have been so convicted. The  
314 term "convicted ~~conviction~~" shall include an adjudication of  
315 guilt on a plea of guilty or a plea of nolo contendere, or the  
316 forfeiture of a bond when charged with a crime;

317 5. Has imported, or caused to be imported, into the United  
318 States any cigarette in violation of 19 U.S.C. s. 1681a; or

319 6. Has imported, or caused to be imported into the United  
320 States, or manufactured for sale or distribution in the United  
321 States, any cigarette that does not fully comply with the  
322 Federal Cigarette Labeling and Advertising Act (15 U.S.C. ss.  
323 1331 et seq.).

324 (d) The division may refuse to issue a ~~distributing agent,~~  
325 ~~wholesale, or exporter~~ permit to any person, firm, or  
326 corporation whose permit under the cigarette law has been

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327 | revoked, ~~or~~ to any corporation, an officer of which has had his  
328 | or her permit under the cigarette law revoked, or to any person  
329 | who is or has been an officer of a corporation whose permit has  
330 | been revoked under the cigarette law. Any permit issued to a  
331 | firm or corporation prohibited from obtaining such permit under  
332 | the cigarette law may be revoked by the division.

333 | (e) Prior to an application for a distributing agent,  
334 | wholesale dealer, or exporter permit being approved, the  
335 | applicant shall file a set of fingerprints on forms provided by  
336 | the division. The applicant shall also file a set of  
337 | fingerprints for any person or persons interested directly or  
338 | indirectly with the applicant in the business for which the  
339 | permit is being sought, when so required by the division. If the  
340 | applicant or any person interested with the applicant, either  
341 | directly or indirectly, in the business for which the permit is  
342 | sought shall be such a person as is within the definition of  
343 | persons to whom a ~~distributing agent, wholesale dealer, or~~  
344 | ~~exporter~~ permit shall be denied, then the application may be  
345 | denied by the division. If the applicant is a partnership, all  
346 | members of the partnership are required to file said  
347 | fingerprints, or if a corporation, all principal officers of the  
348 | corporation are required to file said fingerprints. The  
349 | cigarette permit for a manufacturer, importer, distributing  
350 | agent, wholesale dealer, or exporter shall be originally issued  
351 | at a fee of \$100, which sum is to cover the cost of the  
352 | investigation required before issuing such permit.

353 | (f) The cigarette permits issued under this section ~~permit~~  
354 | ~~for a wholesale dealer or exporter~~ shall be renewed from year to

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355 | ~~year as a matter of course,~~ at an annual cost of \$100, on or  
356 | before July 1, upon making application to the division and upon  
357 | payment of the annual renewal fee.

358 | (g) Permittees, by acceptance of their permits, agree that  
359 | their places of business or vehicles transporting cigarettes  
360 | shall always be subject to be inspected and searched without a  
361 | search warrant for the purpose of ascertaining that all  
362 | provisions of this part are complied with by authorized  
363 | employees of the division and also by sheriffs, deputy sheriffs,  
364 | and police officers during business hours or during any other  
365 | time such premises are occupied by the permittee or other  
366 | persons. Retail cigarette dealers and manufacturers'  
367 | representatives, by dealing in cigarettes, agree that their  
368 | places of business or vehicles transporting cigarettes shall  
369 | always be subject to inspection and search without a search  
370 | warrant for the purpose of ascertaining that all provisions of  
371 | this part are complied with by authorized employees of the  
372 | division and also by sheriffs, deputy sheriffs, and police  
373 | officers during business hours or other times when the premises  
374 | are occupied by the retail dealer or manufacturers'  
375 | representatives or other persons.

376 | (h) No retail sales of cigarettes may be made at a  
377 | location for which a wholesale dealer, distributing agent, or  
378 | exporter permit has been issued. The excise tax on sales made to  
379 | any traveling location, such as an itinerant store or industrial  
380 | caterer, shall be paid into the General Revenue Fund  
381 | unallocated. Cigarettes may be purchased for retail purposes  
382 | only from a person holding a wholesale dealer permit. The

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invoice for the purchase of cigarettes must show the place of business for which the purchase is made and the cigarettes cannot be transferred to any other place of business for the purpose of resale.

Section 7. Section 210.16, Florida Statutes, is amended to read:

210.16 Revocation or suspension of permit.--

(1) The Division of Alcoholic Beverages and Tobacco is given full power and authority to revoke the permit of any person ~~wholesale dealer~~ receiving a permit to engage in business under this part or chapter 569 for violation of any of the provisions of this part or chapter 569.

(2) The division shall revoke the permit or permits of any person who would be ineligible to obtain a new license or renew a license by reason of any of the conditions for permitting provided in s. 210.15(1)(c)1.-6.

(3)(2) The division may suspend for a reasonable period of time or revoke, in its discretion, the permits ~~of wholesale dealers~~ issued under the provisions of this part or chapter 569 to any person who has violated any other provision of this part or chapter 569 ~~for the same causes and under the same limitations as is authorized hereunder to revoke the permits of such wholesale dealers.~~

(4)(3) No person ~~wholesale dealer~~ whose permit for any place of business has been revoked shall engage in business under this part or chapter 569 at such place of business after such revocation until a new permit is issued. No person ~~wholesale dealer~~ whose permit for any place of business has been

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411 | revoked shall be permitted to have said permit renewed, or to  
412 | obtain an additional cigarette permit for any other place of  
413 | business, for a period of 2 years ~~6 months~~ after the date such  
414 | revocation becomes final.

415 |       (5)(4) In addition to ~~lieu of~~ the suspension or revocation  
416 | of permits, the division may impose civil penalties against  
417 | holders of permits for violations of this part or rules and  
418 | regulations relating thereto. No civil penalty so imposed shall  
419 | exceed \$2,500 ~~\$1,000~~ for each offense, and all amounts collected  
420 | shall be deposited with the Chief Financial Officer to the  
421 | credit of the General Revenue Fund. If the holder of the permit  
422 | fails to pay the civil penalty, his or her permit shall be  
423 | suspended for such period of time as the division may specify.

424 |       Section 8. Subsections (2) and (3) of section 210.18,  
425 | Florida Statutes, are amended, and subsection (9) is added to  
426 | said section, to read:

427 |       210.18 Penalties for tax evasion; reports by sheriffs.--

428 |       (2) Except as otherwise provided in this section, any  
429 | person ~~wholesale or retail dealer~~ who fails, neglects, or  
430 | refuses to comply with, or violates the provisions of, this part  
431 | or the rules adopted ~~and regulations promulgated~~ by the division  
432 | under this part commits ~~is guilty of~~ a misdemeanor of the first  
433 | degree, punishable as provided in s. 775.082 or s. 775.083. Any  
434 | person ~~wholesale or retail dealer~~ who has been convicted of a  
435 | violation of any provision of the cigarette tax law and who is  
436 | thereafter convicted of a further violation of the cigarette tax  
437 | law commits ~~is~~, upon conviction of such further offense, ~~guilty~~



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438 ~~of~~ a felony of the third degree, punishable as provided in s.  
439 775.082, s. 775.083, or s. 775.084.

440 (3) Any person who falsely or fraudulently makes, forges,  
441 alters, or counterfeits any stamp or impression die used in  
442 meter machines prescribed by the division under the provisions  
443 of this part; or, with intent to evade taxes, jams, tampers  
444 with, or alters such a machine; or causes or procures to be  
445 falsely or fraudulently made, forged, altered, or counterfeited  
446 any such stamp or die; or knowingly and willfully utters,  
447 purchases, passes or tenders as true any such false, altered, or  
448 counterfeited stamp or die impression; or, with the intent to  
449 defraud the state, fails to comply with any other requirement of  
450 this section commits ~~is guilty of~~ a felony of the third degree,  
451 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

452 (9) Notwithstanding any other provision of law, the sale  
453 or possession for sale of counterfeit cigarettes by any person  
454 or by a manufacturer, importer, distributing agent, wholesale  
455 dealer, or retail dealer shall result in the seizure of the  
456 product and related machinery by the division or any law  
457 enforcement agency.

458 (10) It is unlawful to sell or possess with the intent to  
459 sell counterfeit cigarettes, as defined in s. 210.01(22).

460 (a) A person who does not hold a permit or holds a retail  
461 permit under the provisions of this chapter and who violates  
462 this subsection commits a felony of the third degree, punishable  
463 as provided in s. 775.082, s. 775.083, or s. 775.084, and is  
464 subject to the imposition of fines and additional penalties as  
465 follows:

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466        1. If the quantity of counterfeit cigarettes sold or  
467 possessed with the intent to sell is less than two cartons or  
468 the equivalent, the fine for a first violation shall not exceed  
469 \$1,000 or five times the retail value of the counterfeit  
470 cigarettes, whichever is greater. A subsequent violation may  
471 result in the imposition of a fine not to exceed \$5,000 or five  
472 times the retail value of the counterfeit cigarettes, whichever  
473 is greater, and shall result in revocation of the retail permit  
474 by the division.

475        2. If the quantity of counterfeit cigarettes sold or  
476 possessed with the intent to sell is two cartons or more or the  
477 equivalent, the fine for a first violation shall not exceed  
478 \$2,000 or five times the retail value of the counterfeit  
479 cigarettes, whichever is greater. A subsequent violation may  
480 result in the imposition of a fine not to exceed \$50,000 or five  
481 times the retail value of the counterfeit cigarettes, whichever  
482 is greater, and shall result in revocation of the retail permit  
483 by the division.

484        (b) A person who holds a permit, other than a retail  
485 permit, under the provisions of this chapter and who violates  
486 this subsection commits a felony of the third degree, punishable  
487 as provided in s. 775.082, s. 775.083, or s. 775.084, and is  
488 subject to the imposition of fines and additional penalties as  
489 follows:

490        1. If the quantity of counterfeit cigarettes sold or  
491 possessed with the intent to sell is less than 10 cartons or the  
492 equivalent, the fine for a first violation shall not exceed  
493 \$1,000 or five times the retail value of the counterfeit

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cigarettes, whichever is greater. A subsequent violation may result in the imposition of a fine not to exceed \$5,000 or five times the retail value of the counterfeit cigarettes, whichever is greater, and shall result in revocation of the permit by the division.

2. If the quantity of counterfeit cigarettes sold or possessed with the intent to sell is 10 cartons or more or the equivalent, the fine for a first violation shall not exceed \$2,000 or five times the retail value of the counterfeit cigarettes, whichever is greater. A subsequent violation may result in the imposition of a fine not to exceed \$50,000 or five times the retail value of the counterfeit cigarettes, whichever is greater, and shall result in revocation of the retail permit by the division.

For purposes of this subsection, any counterfeit cigarettes seized by the division shall be destroyed.

Section 9. Section 210.181, Florida Statutes, is created to read:

210.181 Civil penalties.--

(1) Except as provided in s. 210.16(5), whoever knowingly omits, neglects, or refuses to comply with any duty imposed upon him or her by this part, or to do or cause to be done any of the things required by this part, or does anything prohibited by this part shall, in addition to any other penalty provided in this part, be liable for a fine of \$1,000 or five times the retail value of the cigarettes involved, whichever is greater.

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521       (2) Whoever fails to pay any tax imposed by this part at  
522 the time prescribed by law or rules shall, in addition to any  
523 other penalty provided in this part, be liable for a penalty of  
524 five times the unpaid tax due.

525       Section 10. For the purpose of incorporating the amendment  
526 to section 210.18, Florida Statutes, in a reference thereto,  
527 paragraph (a) of subsection (1) of section 772.102, Florida  
528 Statutes, is reenacted to read:

529       772.102 Definitions.--As used in this chapter, the term:

530       (1) "Criminal activity" means to commit, to attempt to  
531 commit, to conspire to commit, or to solicit, coerce, or  
532 intimidate another person to commit:

533       (a) Any crime which is chargeable by indictment or  
534 information under the following provisions:

535       1. Section 210.18, relating to evasion of payment of  
536 cigarette taxes.

537       2. Section 414.39, relating to public assistance fraud.

538       3. Section 440.105 or s. 440.106, relating to workers'  
539 compensation.

540       4. Part IV of chapter 501, relating to telemarketing.

541       5. Chapter 517, relating to securities transactions.

542       6. Section 550.235, s. 550.3551, or s. 550.3605, relating  
543 to dogracing and horseracing.

544       7. Chapter 550, relating to jai alai frontons.

545       8. Chapter 552, relating to the manufacture, distribution,  
546 and use of explosives.

547       9. Chapter 562, relating to beverage law enforcement.

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548           10.   Section 624.401, relating to transacting insurance  
549 without a certificate of authority, s. 624.437(4)(c)1., relating  
550 to operating an unauthorized multiple-employer welfare  
551 arrangement, or s. 626.902(1)(b), relating to representing or  
552 aiding an unauthorized insurer.

553           11.   Chapter 687, relating to interest and usurious  
554 practices.

555           12.   Section 721.08, s. 721.09, or s. 721.13, relating to  
556 real estate timeshare plans.

557           13.   Chapter 782, relating to homicide.

558           14.   Chapter 784, relating to assault and battery.

559           15.   Chapter 787, relating to kidnapping.

560           16.   Chapter 790, relating to weapons and firearms.

561           17.   Section 796.03, s. 796.04, s. 796.05, or s. 796.07,  
562 relating to prostitution.

563           18.   Chapter 806, relating to arson.

564           19.   Section 810.02(2)(c), relating to specified burglary  
565 of a dwelling or structure.

566           20.   Chapter 812, relating to theft, robbery, and related  
567 crimes.

568           21.   Chapter 815, relating to computer-related crimes.

569           22.   Chapter 817, relating to fraudulent practices, false  
570 pretenses, fraud generally, and credit card crimes.

571           23.   Section 827.071, relating to commercial sexual  
572 exploitation of children.

573           24.   Chapter 831, relating to forgery and counterfeiting.

574           25.   Chapter 832, relating to issuance of worthless checks  
575 and drafts.

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576           26.   Section 836.05, relating to extortion.  
577           27.   Chapter 837, relating to perjury.  
578           28.   Chapter 838, relating to bribery and misuse of public  
579 office.  
580           29.   Chapter 843, relating to obstruction of justice.  
581           30.   Section 847.011, s. 847.012, s. 847.013, s. 847.06, or  
582 s. 847.07, relating to obscene literature and profanity.  
583           31.   Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.  
584 849.25, relating to gambling.  
585           32.   Chapter 893, relating to drug abuse prevention and  
586 control.  
587           33.   Section 914.22 or s. 914.23, relating to witnesses,  
588 victims, or informants.  
589           34.   Section 918.12 or s. 918.13, relating to tampering  
590 with jurors and evidence.  
591           Section 11. For the purpose of incorporating the amendment  
592 to section 210.18, Florida Statutes, in a reference thereto,  
593 paragraph (a) of subsection (1) of section 895.02, Florida  
594 Statutes, is reenacted to read:  
595           895.02 Definitions.--As used in ss. 895.01-895.08, the  
596 term:  
597           (1) "Racketeering activity" means to commit, to attempt to  
598 commit, to conspire to commit, or to solicit, coerce, or  
599 intimidate another person to commit:  
600           (a) Any crime which is chargeable by indictment or  
601 information under the following provisions of the Florida  
602 Statutes:

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1. Section 210.18, relating to evasion of payment of cigarette taxes.

2. Section 403.727(3)(b), relating to environmental control.

3. Section 409.920 or s. 409.9201, relating to Medicaid fraud.

4. Section 414.39, relating to public assistance fraud.

5. Section 440.105 or s. 440.106, relating to workers' compensation.

6. Section 465.0161, relating to distribution of medicinal drugs without a permit as an Internet pharmacy.

7. Sections 499.0051, 499.0052, 499.00535, 499.00545, and 499.0691, relating to crimes involving contraband and adulterated drugs.

8. Part IV of chapter 501, relating to telemarketing.

9. Chapter 517, relating to sale of securities and investor protection.

10. Section 550.235, s. 550.3551, or s. 550.3605, relating to dogracing and horseracing.

11. Chapter 550, relating to jai alai frontons.

12. Chapter 552, relating to the manufacture, distribution, and use of explosives.

13. Chapter 560, relating to money transmitters, if the violation is punishable as a felony.

14. Chapter 562, relating to beverage law enforcement.

15. Section 624.401, relating to transacting insurance without a certificate of authority, s. 624.437(4)(c)1., relating to operating an unauthorized multiple-employer welfare

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arrangement, or s. 626.902(1)(b), relating to representing or  
aiding an unauthorized insurer.

16. Section 655.50, relating to reports of currency  
transactions, when such violation is punishable as a felony.

17. Chapter 687, relating to interest and usurious  
practices.

18. Section 721.08, s. 721.09, or s. 721.13, relating to  
real estate timeshare plans.

19. Chapter 782, relating to homicide.

20. Chapter 784, relating to assault and battery.

21. Chapter 787, relating to kidnapping.

22. Chapter 790, relating to weapons and firearms.

23. Section 796.03, s. 796.035, s. 796.04, s. 796.045, s.  
796.05, or s. 796.07, relating to prostitution and sex  
trafficking.

24. Chapter 806, relating to arson.

25. Section 810.02(2)(c), relating to specified burglary  
of a dwelling or structure.

26. Chapter 812, relating to theft, robbery, and related  
crimes.

27. Chapter 815, relating to computer-related crimes.

28. Chapter 817, relating to fraudulent practices, false  
pretenses, fraud generally, and credit card crimes.

29. Chapter 825, relating to abuse, neglect, or  
exploitation of an elderly person or disabled adult.

30. Section 827.071, relating to commercial sexual  
exploitation of children.

31. Chapter 831, relating to forgery and counterfeiting.



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659           32. Chapter 832, relating to issuance of worthless checks  
660 and drafts.

661           33. Section 836.05, relating to extortion.

662           34. Chapter 837, relating to perjury.

663           35. Chapter 838, relating to bribery and misuse of public  
664 office.

665           36. Chapter 843, relating to obstruction of justice.

666           37. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or  
667 s. 847.07, relating to obscene literature and profanity.

668           38. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.  
669 849.25, relating to gambling.

670           39. Chapter 874, relating to criminal street gangs.

671           40. Chapter 893, relating to drug abuse prevention and  
672 control.

673           41. Chapter 896, relating to offenses related to financial  
674 transactions.

675           42. Sections 914.22 and 914.23, relating to tampering with  
676 a witness, victim, or informant, and retaliation against a  
677 witness, victim, or informant.

678           43. Sections 918.12 and 918.13, relating to tampering with  
679 jurors and evidence.

680           Section 12. This act shall take effect October 1, 2005.